

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case No. 24-CV-60736-RS- Smith/Hunt

IN ADMIRALTY

BANK OF AMERICA, N.A., a national
banking association,

Plaintiff,

vs.

BURRELL DIVERSIFIED
INVESTEMENTS, LLC, a Delaware
Limited Liability Company, DYLAN LUCY,
a 2020 66 foot Zeelander motor Yacht,
Official Number 1294109, her parts,
appliances, equipment, substitutions, etc., *in
rem*,

Defendants.

_____ /

PLAINTIFF'S MOTION FOR U.S. MARSHAL'S SALE

Plaintiff/Judgment Creditor, BANK OF AMERICA, N.A. ("Bank of America"), by and through its undersigned attorneys, respectfully requests this Honorable Court order sale of Defendant Vessel, Dylan Lucy, a 2020 66 foot Zeelander motor Yacht, Official Number 1294109, her parts, appliances, equipment, substitutions, etc. ("Dylan Lucy"), and states as follows:

1. This is an action under admiralty and maritime jurisdiction and is an admiralty claim within the meaning and intent of Rule 9(h) of the Federal Rules of Civil Procedure and 28 U.S.C.A. §1333 and an action for monetary damages against Burrell Diversified Investments, LLC ("BDI") under the loan agreement.

2. On May 2, 2024, Bank of America filed this verified lawsuit seeking to enforce its maritime lien arising from its Preferred Ship Mortgage against the Dylan Lucy, *in rem* (Count I),

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the breach of the loan agreement (Count II) and foreclosure of a Security Agreement (Count III) against BDI.

3. Bank of America sought the following relief against the Dylan Lucy: (1) an Order authorizing arrest of the Dylan Lucy, 2) a judgment in favor of Bank of America and against the Dylan Lucy for the amount due, 3) judicial sale of the Dylan Lucy and 4) the barring and foreclosing of all rights, claims and liens to the Vessel, except the right to redeem the Vessel before the sale as provided by law and possibly determining the priority of the intervening claims currently pending in this action¹ as noted in the comments to Local Rule C(8) and C(9).

4. On July 8, 2024, the Clerk of this Court entered a default against Defendant BDI for its failure to file a response or otherwise oppose the claims by Plaintiff against it as it relates to the breach of the Loan Agreement and foreclosure of the Security Agreement. [DE#26].

5. On July 15, 2024, the Clerk of this Court entered a default against the Defendant Vessel, Dylan Lucy, Official Number 1294109, her parts, appliances, equipment, substitutions, etc. pursuant to Rule 55, Fed R. Civ. P., Local Rule C(8) [DE# 29].

6. On April 14, 2025 this Court entered an Order Granting Plaintiff's Renewed Motion for Default Judgment Against Dylan Lucy Official No. 1294109 and Burrell Diversified Investments LLC [DE#43] and corresponding Final Judgment [DE#44] against BDI and Dylan Lucy.

7. In its Order, this Court Found:

- a. "Bank of America's First Preferred Ship Mortgage granted to Bank of America by the sole owner of the Dylan Lucy, BDI, is a valid and enforceable preferred ship

¹ White Rhino Holdings, LTD filed an Intervenor complaint on August 13, 2024 [DE 32]. White Rhino and Plaintiff entered into a Confidential Settlement Agreement and White Rhino dismissed its Intervening Complaint. *See* [DE 38]. Cable Marine Inc. filed an Intervening Complaint on July 10, 2024 [DE 27]. Plaintiff and Cable Marine Inc. entered into a Confidential Agreement and Cable Marine Inc. dismissed its Intervening Complaint. *See* [DE 41].

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mortgage against Defendant Dylan Lucy in the amount of \$3,709,483.31, plus per diem interest in the amount of (amount of days since January 30, 2025 to present at \$625.81) plus post judgment interest, attorney's fees, cost of litigation, insurance and custodian fees and costs. The Preferred Ship Mortgage also secures payment of attorneys' fees, and Bank of America is entitled to such attorneys' fees. Plaintiff may move for a determination of amounts due and owing for attorneys' fees and costs per Southern District of Florida Local Rule 7.3.." [DE#43 ¶2]

b. "The Defendant Vessel Dylan Lucy can be sold at an interlocutory sale to satisfy Bank of America's preferred mortgage lien for the amounts detailed in the Final Judgment to be entered hereafter." [DE#43 ¶5].

c. "The Court retains jurisdiction to award any subsequent attorneys' fees, court costs, insurance advances and custodial costs incurred by Bank of America through the sale of the Vessel Dylan Lucy. 7. The Court further retains jurisdiction over this matter to enter a deficiency judgment as against BDI should the proceeds of the sale from the Vessel Dylan Lucy not satisfy the judgment amount." [DE#43 ¶6 - 7].

8. Bank of America demands payment of the judgment amount of \$3,709,483.31 plus attorney's fees and costs.

9. Bank of America requests this Honorable Court condemn the Defendant vessel, Dylan Lucy in order to be sold by the U.S. Marshal at public auction.

10. Bank of America requests authorization to credit bid all or part of its Judgment Amount at the public auction of the Dylan Lucy in lieu of cash.

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11. Upon due diligence, it is the position of Bank of America that there are no other creditors whether secure or unsecure, with respect to the Dylan Lucy Plaintiff Bank of America respectfully moves that Bank of America be adjudged the first priority lienholder with respect to Dylan Lucy.

12. Bank of America requests the Court to further retain jurisdiction to award attorney's fees, costs and subsequent incurred *custodia legis fees*.

13. Plaintiff requests any other relief the Court deems just and proper.

14. Pursuant to Local Rule 7.1(a)(2), a proposed Order granting the relief sought by this Motion is attached hereto for the Court's convenience as **Exhibit "A"**, and a copy will be transmitted to Judge Smith at smith@flsd.uscourts.gov pursuant to Rule 3(I)(6) of the CM/ECF Administrative Procedures of the Southern District of Florida.

WHEREFORE, the Plaintiff/Judgment Creditor Bank of America respectfully requests this Court to Order the Sale of the Dylan Lucy as set forth above and in accordance with the Local Admiralty Rules.

Dated: May 9th 2025.

Respectfully submitted,

/s/ Baris J. Okcular
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CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of May, 2025, the foregoing was electronically filed with the Clerk of Court using CM/ECF to: Adam B. Cooke, acooke@fowler-white.com, Robert D. McIntosh rmcintosh@fowler-white.com, Charles S. Davant, Esq., csd@davantlaw.com, Melaina Haisfield, Esq., mdh@davantlaw.com and all those parties receiving electronic notice in the above-referenced case and via U.S. Mail to Burrell Investment Diversified Investments, LLC c/o National Registered Agents, 1209 Orange Street, Wilmington, DE 19801.

/s/ Baris J. Okcular
BARIS J. OKCULAR